

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**ROBERT MARTIN,**

**Petitioner,**

**v.**

**OHIO ADULT PAROLE  
AUTHORITY,**

**Respondent.**

**CASE NO. 2:14-CV-0235  
JUDGE GEORGE C. SMITH  
MAGISTRATE JUDGE ABEL**

**OPINION AND ORDER**

On November 12, 2014, the Magistrate Judge issued a *Report and Recommendation* recommending that the Respondent's *Motion to Dismiss*, ECF 10, be granted. Petitioner has filed an *Objection* to the Magistrate Judge's *Report and Recommendation*. ECF 18.

Petitioner argues that the Magistrate Judge was without jurisdiction to issue a *Report and Recommendation* in this case. This argument fails. Under the provisions of 28 U.S.C. § 636(b), the authority of the Magistrate Judge extends to the issuance of recommendations to the district judge. *Farmer v. Litscher*, 303 F.3d 804 (7<sup>th</sup> Cir. Sept. 18, 2002). This does not constitute an unconstitutional delegation of judicial power. *Id.* at 843. "The Supreme Court has interpreted 636(b)(1)(B) 'to authorize the nonconsensual reference of all prisoner petitions to a magistrate judge.'" *Carbe v. Lappin*, 492 F.3d 325, 327 (5<sup>th</sup> Cir. 2007)(citing *McCarthy v. Bronson*, 500 U.S. 136 (1991)). *See also Hecker v. California Dept. of Corrections and Rehabilitation*, No. CIV S-05-2441 (2007 WL 836806, at \*1 n.1 (E.D. California March 15, 2007)(citing *McCarthy*); *Harris v. Knauf*, No. 89-6212, 905 F.2d 1538, unpublished, 1990 84223, at \*1 (6<sup>th</sup> Cir. June 21, 1990)(Prisoner petition regarding conditions of confinement properly referred to Magistrate

Judge)(citing *Orpiano v. Johnson*, 687 F.2d 44, 46 (4<sup>th</sup> Cir. 1982)(internal citation omitted).  
Petitioner's *Objection* on this basis is **OVERRULED**.

Petitioner additionally raises all of the same arguments he previously presented. For the reasons already set forth in the Magistrate Judge's *Report and Recommendation*, the Court likewise is not persuaded by Petitioner's arguments.

Pursuant to 28 U.S.C. § 636(b), this Court has conducted a *de novo* review. Petitioner's *Objection*, ECF 18, is **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. Respondent's *Motion to Dismiss*, ECF 10, is **GRANTED** and this action is hereby **DISMISSED**.

**IT IS SO ORDERED.**

/s/ George C. Smith  
**GEORGE C. SMITH, JUDGE**  
**UNITED STATES DISTRICT COURT**